IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 366 of 2006

1. Ram Kumar Singh
   S/o Shri Mangal Singh

2. Shambhu Singh
   S/o Shri Mangal Singh
   Both R/o Mohalla PWD Colony Rampura, Rudrapur
   Police station – Rudrapur
   District – Udham Singh Nagar ……..Applicants

Versus

1. State of Uttaranchal

2. Parmanand Churasiya
   R/o PWD Colony, Near Kali Mandir
   Police station – Rudrapur
   District – Udham Singh Nagar ……..Respondents

Shri S.K. Mandal, learned counsel for the applicants
Shri Amit Bhatt, learned A.G.A. for the State.

Hon'ble J.C.S. Rawat, J.

This petition has been filed u/s 482 Cr.P.C. to direct the learned C.J.M., Rudrapur to release the applicant on bail u/s 308 I.P.C. on the same Bail Bond executed in pursuance of the order dated 22.09.2003 in Case Crime No. 1137 of 2003 u/s 323, 324, 504, 506 I.P.C. State Vs. Ram Kumar & Others registered as Case Crime No. 197 of 2004 pending before the Court of learned Chief Judicial Magistrate, Udham Singh Nagar.

Brief facts for the disposal of this petition are that an incident took place on 09.09.2003 at about 8:50 pm. And F.I.R. was lodged after one day, i.e., on 10.09.2003 at about 21:05 pm. It is alleged in the F.I.R. that the accused-applicants assaulted the complainant and his family members. Thereafter, the police lodged the report u/s 323, 324, 504 & 506 I.P.C. and the applicants filed bail application before the court below and they were released on bail. Thereafter, the police converted the case u/s 308 I.P.C. alongwith other sections

and chargesheet was also submitted u/s 323, 324, 504, 506 and 308 I.P.C. the learned Magistrate had passed the cognizance order u/s 308 I.P.C. and also issued warrants against the present accused-applicants. The present accused-applicants moved the bail application before the court below but they were not released on bail u/s 308 I.P.C. and non-bailable warrants were issued against the present accused-applicants. Feeling aggrieved by the said order, the present petition has been filed.

Heard learned counsel for the parties and perused the record.

Learned counsel for the applicants contended that the applicants were on bail under section 323, 324, 504 and 506 IPC and as such they may be granted bail in the subsequent section without filing fresh bail application.

Learned counsel for the applicants has relied upon a decision of Allahabad High Court in Ugrasen Singh Vs. state of U.P. reported in 1993(30) ACC p/531. Learned counsel for the applicants has also relied upon the decision of this Court in Jamil Vs. State of Uttaranchal reported in 2005(3) U.C. p/1698. In both the decisions, it has been held that if a person is once granted bail in the minor offences, he need not to file fresh bail application for grant of bail in the subsequent sections and he will remain on bail on the earlier order.

In view of the discussion, the learned Magistrate is directed to permit the applicants to furnish fresh surety bond without requiring them to file fresh bail application.

The petition is disposed of accordingly.

All applications pending in this case are stand disposed of in terms of the judgment.

(J.C.S. Rawat, J.)

13th June,2006
Shiv